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10 UNITED STATES DISTRICT COURT
11 WESTERN DISTRICT OF WASHINGTON
12 AT TACOMA

13 SANDRA HERRERA, *et al.*

14 Plaintiffs,

15 v.

16 PIERCE COUNTY, *et al.*

17 Defendants.
18

NO. C95-5025 RJB/JKA

ORDER ON DEFENDANTS'
REQUEST FOR PROTOCOLS

19 This 42 U.S.C. 1983 Action has been referred to the undersigned Magistrate Judge.
20 Before the court is a "request" to impose certain protocols on the court monitor's interactions
21 with Pierce County Staff (Dkt. # 216).

22 The court notes that Proposed Monitor Protocols 1, 2, and 3 appear to be consistent with
23 the procedures heretofore utilized by the Monitor and corrections staff/employees, and knows of
24 no reason why those practices should not continue.

25 With regard to Proposed Protocol 4, the court would first note that any individual has a
26 right to have an attorney of their choosing present during any inquiry. As proposed, however,

1 the procedure is too onerous. Staff and counsel will have advance notice of the dates of the
2 Monitors visit to the jail. The Monitor's efforts are obviously "work in progress" and he cannot
3 possibly give advance notice of every person he may wish to speak with. The work of the
4 monitor should not be impeded by the unavailability of counsel. It shall therefore be incumbent
5 on the jail staff and counsel to make certain that counsel is present or immediately available at
6 all times during the scheduled visit. The court therefore will protect the right to have counsel
7 present with the understanding that that the procedure does not adversely impact the Monitor's
8 ability to efficiently and expeditiously complete his task. If counsel's presence, or delayed
9 presence, obstructs or interferes with the monitor's visit, the court expects the monitor to note
10 the nature of the problem(s) in the report to the court
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12 Dated this 16th day of September, 2009.

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14 /s/ J. Kelley Arnold
15 J. Kelley Arnold
16 United States Magistrate Judge
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